USAID/Nigeria: SO 2 Portfolio Review

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USAID/Nigeria
Support for the National Investment Promotion Commission

FINDINGS REPORT

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I. Introduction & Summary

IBM Business Consulting Services has been engaged by USAID-Nigeria to provide it with a variety of inputs for its formulation of a five-year Country Assistance Strategy that will begin in 2004. Under Task Order #1 of this contract, IBM is evaluating the contracts that USAID's SO2 Team has issued to outside implementers during the startup period since USAID reopened a Nigeria operation in 1999 after a long absence from the country due to undemocratic military rule.

This third of nine *Findings Reports* covers support provided to the Government of Nigeria (GON), particularly the National Investment Promotion Commission (NIPC) through two USAID contracts, one implemented by the IFC-World Bank Foreign Investment Advisory Service (FIAS), and one by The Services Group (TSG). The FIAS work was funded through USAID's broader contract to evaluate and promote export sector competitiveness in Nigeria[1], and the TSG work through a separate stand-alone contract.[2] The deliverables were two reports, the first, by FIAS, a general diagnosis of Nigeria's foreign investment environment, and the second, by TSG, a more detailed "road map" describing the process that a foreign business must go through to set up and operate in Nigeria. These status reports were to serve the NIPC in planning and implementing a strategy to elevate foreign investment in Nigeria, and the GON more broadly (at both the federal and subnational levels) in reducing the burden of administrative red tape on the private sector generally, in the process reducing opportunities for corruption.

Two substantial reports were produced:

1. *Nigeria: Joining the Race for Non-Oil Foreign Investment*, FIAS, December 2000, and
2. *The Nigeria Investors' Roadmap and Enabling Environment Strategy*, TSG, October 2002

Both studies have essentially the same focus – the elements of the legal and regulatory (including tax) structure which are of greatest concern to foreign companies and investors wishing to do business in Nigeria. Both detail the complexities of undertaking non-oil private investment under Nigeria's oppressive government bureaucracy. Both have the same purpose – to encourage the GON to simplify business procedures and make them more transparent in order to encourage foreign investment. Both reports provide detailed "best-practice" recommendations, by major regulatory area, for achieving this goal. The two sets of recommendations were consistent with each other and mutually reinforcing. To a large extent, the TSG study extended and detailed FIAS' more general "first cut" diagnosis.

Both studies also gave attention to the role and effectiveness of the NIPC, which should carry principal responsibility in the GON in promoting foreign investment. Both provided recommendations for improving the performance of the NIPC. With these two reports in hand, the NIPC has the blueprint it needs to become the true champion for reducing obstacles to doing business in Nigeria and improving the investment environment. It has clear recommendations as to its mission and operational focus that can guide it in becoming an effective agency – which it currently is not.

A principal programmatic recommendation is for USAID to support the institutional strengthening of the NIPC. A foreign investment promotion agency has an important role in a developing economy, not so much in "marketing" the country to foreigners, but mainly as an *internal* advocate for reform based on an understanding of what is really required to attract risk capital. A well-organized and well-functioning NIPC would complement USAID's successful institutional strengthening elsewhere in the GON, particularly the Bureau for Public Enterprises, creating a second radical "change agent" in the GON. Support for the Corporate Affairs Commission (CAC), to modernize the business registration process, should also be considered.

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[1] Contract # PCE-I-00-99-00003-00 with Chemonics. FIAS itself and the Swiss government also contributed funds to the study.

[2] Contract # PCE-I-00-98-00017, TO# 825. The contract was awarded to PwC Consulting but fully subcontracted to TSG.

II. CONTRACT MOTIVATION & OBJECTIVES

Since the 1950s it has been observed that Nigeria is endowed with a vibrant spirit of private enterprise and the largest pool of potentially successful entrepreneurs in Africa. However, non-oil private productive investment has never taken off in Nigeria, frustrating these entrepreneurial proclivities domestically and forcing many enterprising Nigerians to exercise their considerable business acumen abroad. Reasons relate to a poor investor incentive climate, due importantly to increasing economic dominance of rent flows from oil, and to oppressive governments and public servants and public sector economic policies. Beginning in the 1970s, greater oil revenues financed increasingly onerous public sector interventions and more and more corruption. The result has been that there are, in relative terms, woefully low levels of both foreign and domestic private productive investment in Nigeria.

Following the 1999 presidential elections, the GON outlined a new development strategy aimed at encouraging growth in the private sector. In this connection, the Minister of Finance requested donor support in assessing the constraints on doing business faced by the private sector as well as by investors. USAID agreed to fund two studies. One was to be a diagnosis of the climate for foreign direct investment, with special attention to the institutional and legal framework as well as administrative barriers to private investment. This report was to be done in conjunction with the IFC/World Bank Foreign Investment Advisory Service (FIAS), which has produced a number of such studies for developing and transition economies. The other report was to be an “investor roadmap” (IRM) that would document in detail the steps required for a foreign business to register, locate, employ staff, and operate in Nigeria. The IRM was to be enhanced by attention to associated broader issues: corruption, taxation, import and export procedures, and resolution of commercial disputes.

USAID’s objective, in coordination with other donors, was to set the stage for wholesale reform of the investment and business enabling environment in Nigeria, in order to transform the country into an attractive FDI target. Given its low capacity to generate domestic savings, Nigeria’s rapid growth depends crucially on a vastly elevated inflow of foreign private finance. It is well-recognized that oil-related FDI has limited spillover benefits for the domestic business sector. Non-oil private investment in Nigeria is paltry – less than one percent of GDP.

The FIAS study came first, in 2000, and was expected to do the following:

- Provide an effective and realistic basis for identifying the main constraints that face existing and potential (foreign and domestic) investors in the country
- Gather information on recent FDI trends and potential areas of interest for foreign investors, especially in the non-oil sector
- Examine key policy elements that influence the location decision of foreign investors and private entrepreneurs such as tax, trade, foreign exchange and labor policies
- Assess the legal and institutional framework for FDI and the private sector
- Indicate a preliminary review of the main administrative barriers that investors and businessmen are likely to meet when they want to invest and operate in Nigeria
- Identify priorities for actions and propose recommendations for improving the investment climate and the private sector enabling environment in Nigeria.

The later (2002) investor roadmap report was expected to address:

- Law and regulations pertaining to FDI and all private sector investment
- Tax policy and investment incentives
- Microeconomic aspects of foreign exchange policy and trade issues
- Administrative barriers and “red tape” hindering investment and businesses
- Institutional and investment promotional issues
- Other relevant policy issues facing the private sector

The IRM was to be enhanced, covering in addition to the usual four sections (reporting, employing, locating and operating), additional chapters dealing with “overarching issues” (Nigeria’s federal system and corruption), taxation, import and export procedures, and resolution of commercial disputes.

Naturally, the focus areas of two reports overlapped to a considerable degree. The preparation of an IRM was specifically anticipated by the earlier general and introductory FIAS report, and to a large extent represented a detailed extension and elaboration of it.

III. PERFORMANCE, ACCOMPLISHMENTS, AND SHORTFALLS

Two well-organized, well-written, and highly substantive reports were delivered to USAID and to the GON through the NIPC.

The FIAS Report

The FIAS assessment of the private investment atmosphere, entitled *Nigeria: Joining the Race for Non-Oil Foreign Investment*, was delivered in December 2000. A self-admitted "first cut" at ways of improving the non-oil investment environment, it provided many recommendations for policy improvements at strategic and tactical levels of detail. It set out in clear terms for policymakers prioritized key investment environment and enterprise sector reforms. Its recommendations were organized in the following categories:

- Enforcement of laws and the judicial system
- Intellectual property rights
- Taxation
- Employing
- Locating
- Reporting
- Operating (including corruption)
- Government-private sector relations
- NIPC
- Subnational dimensions of investment promotion

Considerable background and was provided in each subject area, so that the document's policy prescription was persuasive. Recommendations were given more credibility by providing a number of extended descriptions of positive comparative examples of actual experiences in other developing countries.

The Investor Roadmap

By design, the IRM was to follow the FIAS report and provide a second, deeper cut at ways of improving the investment environment. Delivered by TSG in October 2002, it was in the end organized as follows:

- Business registration
- Locating
- Employing
- Import and Export
- Resolution of Commercial Disputes
- Taxation

The report included a useful appendix on international best practices covering each of the above areas:

The project team visited forty Federal and subnational government agencies in Nigeria, and some 150 private sector and civil society sources. The IRM was remarkably thorough and detailed, first carefully stipulating the steps that a company needed to go through in each area in order to operate, then analyzing the procedures, then providing exhaustive recommendations on improving the processes to reduce red tape and the time and expense of dealing with administrative requirements.

In sum, USAID certainly got what it paid for in both cases in this activity. From two different sets of experts, they provide a mutually reinforcing, ready-to-use blueprint for legal, regulatory, and institutional reform to improve the investment environment and business enabling system in Nigeria.

IV. EVALUATION & RECOMMENDATIONS

The activity did what it was supposed to do in producing thorough and actionable reports. However, while most business visitors to Nigeria now note considerable improvements in routine entry and exit compared to years past, much of the investment environment reform agenda is still awaiting implementation. Almost all of the issues cited in the FIAS report in December 2000 remained issues two years later in the IRM assessment. To quote the IRM's executive summary:

> *The study found that, three years into the transition to civilian administration, many of Nigeria's interviewed government agencies still remain wedded to command-and-control structures and reflexes, exhibit outdated protectionist tendencies, and continue to inhibit foreign direct investment. Investment procedures generally remain inefficient, opaque, complex, lengthy, and subject to non-statutory facilitation by public officials.*

Now that the reform blueprint has been provided by these reports, the programmatic question is how USAID could now most efficiently and effectively push the investment environment improvement implementation agenda. These reports suggest the following institutional vehicles as the most obvious agents of change in this regard:

- The NIPC, with broad responsibility for improvement of the investment environment
- The Corporate Affairs Commission (CAC), which is primarily responsible for company registration

The NIPC is the most natural target for institutional strengthening support – and it is deeply in need of it. It is disappointing that the NIPC, the primary recipient of both of these reports, failed to address the fundamental criticisms of its *own* role contained in the FIAS report, which were repeated almost verbatim two years later by the IRM. The NIPC itself contributes to investor red tape by requiring all foreign companies to re-register with it and obtain a separate permit from it to do business, after they have already registered with the CAC. Both reports described NIPC processes and customer interface as bureaucratic, redundant, inefficient, and discriminatory, with unclear procedural guidelines. The FIAS report made a very persuasive case that the NIPC should entirely abandon its regulatory / control role in favor of two important missions: (1) being the key <u>facilitator</u> for foreign investors and entering companies, a service organization to navigate for them the maze of Nigerian government bureaucracy, and (2) being the leading advocate, the <u>champion</u> in the FGRN for investor environment reform through implementation of the FIAS / IRM blueprint.

It is frustrating that two years after this attractive strategy was first pointed out, the NIPC has not yet reformed itself. This could argue against providing institutional support for the NIPC. However, outside the BPE, the FGRN lacks a champion of business environment reform, and it desperately needs a strong foreign investment promotion agency. It is positive that the NIPC is now planning to implement a reorganization plan being prepared by qualified outside consultants (Accenture), and the IRM reported that the NIPC was "on the right track" in starting to change. A focused and carefully conditioned project to reform the NIPC must be considered, based on the detailed recommendations provided in the two reports. Coupled with the proven improvements supported by USAID at the BPE, which is already itself working to train NIPC staff, these two agencies can form a common front and be a true force for change.

Institutional support for the CAC should also be considered to improve the business registration process. The IRM report cites needs for training in customer service, time and performance management, and MIS and database management.

Basically this support is needed to enable these key agencies to better execute the "business of government", and thereby create an attractive investment environment. Such support focuses on (1) change management to clarify each agency's mission and organizationally re-align itself toward customer service and advocacy, and (2) business management systems that help formalize and streamline procedures while removing rent-seeking opportunities. It seems reasonable, given the common overarching objective, that assistance to these two agencies be combined in a single two-pronged project.

APPENDIX: Sources of Information

Documents Reviewed

USAID/PwC Contract and amendments.

NIGERIA: Joining the Race for Non-Oil Foreign Investment, main author FAIS of World Bank/IFC, December, 2000.

Nigeria: Investor Road Map, October 2002, The Services Group

"Administrative Barriers to FDI", presentation, J-P Gauthier, TSG, January 2001

Personal Interviews

Ms. Ravi Aulakh, Chief Economist, USAID/Nigeria

Mr. Tom Hutcheson, Macroeconomic Advisor, USAID/Nigeria

Dr. Julius Bala, Director, National Investment Promotion Commission

Lai Yahaya, Special Assistant to the DG, Bureau of Public Enterprises